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असाधारण
EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 29th November, 1968:—

BILL No 85 OF 1968

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1968.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section
123.

2. In section 123 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in clause (5),—

(i) the brackets and words “(other than the candidate himself, the members of his family or his agent)” shall be omitted;

(ii) second proviso shall be omitted;

(iii) explanation shall be omitted.

Insertion
of section
125A.

3. After section 125 of the principal Act, the following new section shall be inserted, namely:—

Prohibi-
tion of the
use of
vehicles,
etc.

“125A. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to rules made in this behalf under section 169 of this Act, the use of any vehicle or vessel by an elector on election day for the purpose of going to or coming from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll shall be prohibited:

Provided that the use of a vehicle or vessel not propelled by mechanical power shall not be so prohibited.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognisable.

Amend-
ment of
section
169.

4. After clause (h) of sub-section (2) of section 169 of the principal Act, the following new clause shall be inserted, namely:—

“(hh) prohibition of the use of vehicles or vessels by electors on election day,”.

STATEMENT OF OBJECTS AND REASONS

Under the present election law, hiring and procuring of vehicles etc. by a candidate or his agent for the purpose of transporting electors to and from polling stations is a corrupt practice. But the fact that electors themselves are free to hire and use vehicles renders the present law practically ineffective. Hiring of vehicles on polling day is a corrupt practice, very widespread now. This has also contributed to increasing the cost of elections abnormally. In order to plug this loophole effectively, steps need be taken to ensure that on election day, all vehicles are off the road, except those engaged in official election work, or for hospitals, police and such other emergency purposes. Suitable rules can be framed to issue vehicle permits on the lines of those issued in times of curfew to *bona fide* vehicle users. This Bill seeks to legislate in this direction.

NEW DELHI;

ATAL BEHARI VAJPAYEE.

The 13th August, 1968.

BILL No. 90 OF 1968

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Constitution (Amendment) Act, 1968.

Amend-
ment
of arti-
cle 15.

2. In article 15 of the Constitution, in clause (4), after the word "socially", the word "economically" shall be inserted.

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|---|---------------------------------|
| <p>3. In article 16 of the Constitution, in clause (2), after the word "religion", the words "political views" shall be inserted.</p> | <p>Amendment of article 16.</p> |
| <p>4. In article 19 of the Constitution,—</p> <p>(a) clauses (2), (3) and (4) shall be omitted.</p> <p>(b) in clause (5), for the words and brackets, "sub-clauses (d), (e) and (f)", the words and brackets "sub-clause (f)" shall be substituted.</p> | <p>Amendment of article 19.</p> |
| <p>5. In article 22 of the Constitution,—</p> <p>(a) in clause (3), sub-clause (b) shall be omitted;</p> <p>(b) in clause (4),—</p> <p>(i) the word "unless" shall be omitted;</p> <p>(ii) sub-clauses (a) and (b) shall be omitted;</p> <p>(c) clauses (6) and (7) shall be omitted.</p> | <p>Amendment of article 22.</p> |

STATEMENT OF OBJECTS AND REASONS

Part III of the Constitution of India deals with the Fundamental Rights which constitute the main democratic contents of our Republic. It is apparent that a big section of our people are socially and educationally backward and this backwardness has to be ended soon. But experience has shown that economic backwardness makes the task of ending social and educational backwardness difficult. Hence, the need for inserting the word 'economically' along with the words 'socially and educationally' in article 15.

Article 16 provides for safeguard against discrimination on the grounds of religion, caste etc. But there have been frequent complaints of discrimination on grounds of political views. Hence, the need for safeguards against the same.

Article 19 provides for Rights to Freedom. But clauses (2), (3), (4) and the mention of (d) and (e) of clause (1) in clause (5) unnecessarily takes away whatever is given in clause (1) and powers of the executive and bureaucracy become dominating over the right to freedom. Hence, the necessity of the deletion of these clauses.

In the same manner in article 22, sub-clauses (a) and (b) of clause (4) and clauses (6) and (7) increase the power of the executive to detain a citizen without trial endlessly. Hence the necessity of deleting these provisions. The provision for detention without trial for a period upto three months in clause (4) will serve the purpose adequately.

Hence the Bill.

NEW DELHI;

BHOGENDRA JHA.

The 29th August, 1968.

BILL NO. 82 OF 1968

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1968.

Short
title and
com-
mence-
ment.

5 (2) It shall come into force at once.

45 of 1860.

2. Section 18 of the Indian Penal Code, 1860, shall be omitted.

Omission
of section
18.

STATEMENT OF OBJECTS AND REASONS

Chapter II of the Indian Penal Code deals with general explanations and definitions of the terms used in the Code. Section 18 defines India as the territory of India excluding the State of Jammu and Kashmir. This definition is not only unnecessary but it is also unconstitutional. Article 1(3) of the Constitution of India says that the territory of India shall comprise of "(a) the territories of the States; (b) the Union territories specified in the First Schedule; and (c) such other territories as may be acquired.". Section 18 is, therefore, clearly *ultra vires* of the Constitution of India and must be deleted.

Apart from the unconstitutionality of this section, it is against the declared policy of the Government and cannot but provide ammunition to anti-Indian propaganda. If the intention was to make the Indian Penal Code, 1860 non-applicable to the State of Jammu and Kashmir, the purpose has been adequately served by section 1 of the Code which says that it "shall extend to the whole of India except the State of Jammu and Kashmir." This Bill is, therefore, designed to remove the blot of this unconstitutional, anti-national and unnecessary provision from our Penal Code.

NEW DELHI;
The 3rd September, 1968.

MADHU LIMAYE.

BILL NO. 92 OF 1968

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1968.
- (2) It shall come into force at once.

Short title
and com-
mence-
ment.

Amend-
ment of
article 1.

2. In article 1 of the Constitution after clause (3), the following *Explanation* shall be inserted, namely:—

“Explanation.—In this article ‘territory of India’ includes any territory which has at any time been claimed by the Union of India, including the Prime Minister, as Indian territory and/or has been in the possession of India any time after Independence.”

Amend-
ment of
article 3.

3. In article 3, after the existing proviso, the following further proviso shall be inserted, namely:—

“Provided further that it shall not be lawful for Parliament to transfer any part of the territory of India to any foreign power whether under a treaty or agreement or otherwise.”

STATEMENT OF OBJECTS AND REASONS

The Constitution of India does not describe in detail the territories comprised in the constituent States, Union territories, or the territories as may be acquired. However, the Government has always claimed that the boundaries of India are clear, well-known and well-recognised. And the Supreme Court, in the Berubari case, has held that no part of Indian territory can be transferred by the Government to a foreign power in pursuance of an agreement by executive fiat or by an ordinary Act of Parliament. Acquisition or cession of territory, being an attribute of sovereignty, cannot be said to be beyond the competence of a sovereign State, but in order to give effect to this, the Supreme Court held, an amendment of the Constitution will be necessary.

In order to circumvent this decision of the Supreme Court, the Government of India have taken the position in regard to the Kutch issue that since the territory awarded by the Kutch Tribunal to Pakistan was not Indian territory at all but was only in the "adverse possession" of India, no amendment of the Constitution or legislation would be required to transfer this territory to Pakistan.

From the common-sense point of view it is obvious that the territory of India is the territory which the Government has claimed to be our territory from time to time. But in view of the Government's anti-national stand it has become necessary to make the position clear by further elaborating the constitutional provision in this regard.

NEW DELHI;
The 3rd September, 1968.

MADHU LIMAYE.

BILL NO. 87 OF 1968 .

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Nineteenth year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1968.

(2) It shall come into force at once.

43 of 1951

2. In the Representation of the People Act, 1951, after section 168 the following new section shall be inserted, namely:—

Insertion
of new
section
168A.

"168A. (1) Notwithstanding anything contained in any law for the time being in force, any political party recognised by the Election Commission for the purposes of elections shall be de-recognised for a period of five years if it admits within the ranks of its legislative party, whether as members or associate members, any legislator who has voluntarily defected from a political party on whose ticket he had been elected.

Recogni-
tion of
political
parties

(2) Notwithstanding anything contained in any law for the time being in force, no political party applying for recognition for the purposes of elections shall be recognised by the Election Commission in the two years previous to its application for recognition it has admitted within the ranks of its legislative party, whether as member or associate member, any legislator who has voluntarily defected from a political party on whose ticket he had been elected.

Explanation.—An elected member of Parliament or State Legislature or of a representative body in a Union territory who has contested election on the ticket of a recognised political party shall be deemed to have defected, if, after being elected as a member of either House of Parliament or State Legislature or of a representative body in a Union territory, he voluntarily renounces allegiance to or association with that political party, provided that his action is not in consequence of a decision of the political party concerned.

(3) Every political party recognised for election purposes by the Election Commission or applying for such recognition shall file with the Election Commission before the thirty-first day of March every year a statement showing its income and expenditure in the previous calendar year.

(4) Any recognised political party which fails to provide the information mentioned in sub-section (3) or fails to give a satisfactory explanation for this failure or delay in submitting this information, shall be derecognised by the Election Commission for a period of five years.

(5) Any political party which has applied for recognition for election purposes to the Election Commission and which has, in the calendar year prior to the application, failed to submit the information mentioned in sub-section (3), shall not be given such recognition.

(6) The Election Commission may make rules for carrying out the purposes of this section."

STATEMENT OF OBJECTS AND REASONS

Political defections as distinct from change in political views and affiliation has been a marked phenomenon of Indian politics during the last 21 years. All that has happened since the Fourth General Election is that the scale of these defections has assumed large proportions and, more importantly, that while the defections in the period before the Fourth General Election were generally from the non-Congress opposition parties to the ruling Congress party, in the recent period there have been significant defections from the Congress party to the non-Congress party.

While it is difficult to give a precise definition of defection and to propose measures that might be held violative of constitutional guarantees, it is possible to impose a deterrent on this kind of opportunist political behaviour by withdrawing from political parties, which support or encourage such conduct, their recognition and the advantages incidental to this recognition.

Sources of political funds are an important factor in the functioning of any democratic system. Allegations have often been made about the hidden sources of funds of political parties. These sources may be foreign or indigenous, legal big business sources or unaccounted black money but the effect is the same. These hidden sources pollute the entire public life, allow foreigners to interfere in our internal affairs and vitiate the democratic process by generating the evils of fifth columnism, bossism and big money domination. This Bill will, it is hoped, at least put some curb on these rampant evils.

NEW DELHI;

MADHU LIMAYE

The 3rd September, 1968.

FINANCIAL MEMORANDUM

In clause 2 of the Bill, sub-section (4) of the proposed new section 168A will involve some additional outlay on the office of the Election Commission. This expenditure will be approximately rupees one lakh.

MEMORANDUM ON DELEGATED LEGISLATION

In clause 2 of the Bill, sub-section (6) of the proposed new section 168A confers rule making power on the Election Commission. This relates to matters of detail and is of a normal character.

BILL No. 93 OF 1968

A Bill to regulate the flow of foreign money coming into India and to provide for the curbs on the harmful activities of foreigners and their agents in this country.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Regulation of the Flow of Foreign Monies Act 1968.

(2) It shall come into force at once.

2. In this Act—

Defini-
tions.

(a) 'chief office bearers' means office bearers designated by the institutions and accepted by the Government or authority or body mentioned in section 3;

(b) "foreigner" means any person who is not a citizen of India;

(c) "foreign country" means a country or a place outside India;

(d) "foreign institution" means any institution, association, trade union, society, political parties, political clubs and similar other organisations.

3. Notwithstanding anything contained in any Act, all political parties, trade unions, registered societies, cultural organisations and similar other institutions or bodies shall be required to inform every year, before the thirty-first day of March, to the Government of India or any authority or body, prescribed in the rules to be framed for the purpose, of the details of all remittances of money received by them from all foreigners, foreign institutions and foreign countries during the previous calendar year.

Informa-
tion
regarding
money
received
by insti-
tutions
from
foreigners
etc.

4. Upon a demand being made by the Government, or the authority or body authorised in this behalf, the political parties, trade unions, registered societies, cultural organisations and other similar institutions or bodies concerned shall furnish the details of the purpose for which these remittances were received and also the details of the activities for which these remittances were applied.

Informa-
tion
regarding
purpose
for which
remit-
tances
received
and
applied.

5. The Central Government shall lay before each House of Parliament before the first day of May every year a report or statement on the information and data furnished under sections 3 and 4.

Govern-
ment to
report to
Parlia-
ment
on data
furnished
under
sections 3
and 4.

6. The Speaker of Lok Sabha, in consultation with the Chairman of Rajya Sabha, shall set up a Committee consisting of the representatives of all nationally-recognised or multi-State political parties

Commit-
tee to
study
reports.

and other sections of opinion represented in Parliament to study these reports and make recommendations to Parliament and Government for preventing the evil effects of this foreign money on India's public life.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules not inconsistent with the provisions of this Act, for carrying out the purposes of this Act.

Procedure to regulate functioning of Committee.

8. The Speaker of Lok Sabha shall have the power to prescribe for the Committee to be set up under this Act the procedure of Parliamentary Committees, with such modifications as he may deem fit, to regulate its functioning.

Penalties.

9. The failure of the chief office-bearers of the institutions, mentioned in section 3, to furnish the details of information mentioned in sections 3 and 4 shall be treated as a criminal offence and shall be punishable with imprisonment of at least three months and extending upto two years and fine upto five thousand rupees.

Rules to be laid before Parliament.

10. The rules mentioned in section 7 and the modifications of the procedure mentioned in section 8 shall be laid, as soon as may be after they are made, before each House of Parliament and may be amended by them within a period of sixty days from the date of their being so laid.

STATEMENT OF OBJECTS AND REASONS

During the discussion on my Private Member's Bill seeking to put a ban on company donations for political purposes in the Winter Session of Lok Sabha in 1967, it was pointed out that while the objects of the Bill were laudable and would go some way towards the purification of politics and the diminishing of the influence of big money in our democratic institutions and political parties, this measure would have to be supplemented by legislative and executive action for preventing the flow of foreign money into this country. This flow, it was said, had resulted in a steady corrosion of our political, economic, cultural and educational life. I had expressed agreement with this point of view.

This Bill is not designed to prohibit the flow of foreign money into India. I do not know whether such a prohibition would be constitutionally valid. The object of this Bill is limited: it is to make it compulsory for political parties and all other institutions to furnish to the Government the details of the receipt of foreign remittances and of the activities to which these monies are applied. The task of suggesting legislative and administrative measures to prevent the evil effects of the injection of foreign money has been left to the Parliamentary Committee to be set up by the Speaker of Lok Sabha under this Act.

This Bill is, therefore, complementary to the Companies (Amendment) Bill seeking to ban donations by companies to political parties moved by me last year and which I withdrew on the assurance of the Minister for Industrial Development and Company Affairs that the Government themselves would come forward with a legally more fool-proof Bill incorporating the principles of my legislative proposal.

NEW DELHI;

MADHU LIMAYE.

The 3rd September, 1968

FINANCIAL MEMORANDUM

The provisions of clauses 4, 5, and 6 will entail some additional outlay. My estimate of this additional expenditure is around Rs. 2 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 7 and 8 confer rule-making power on the Government and the Speaker. The delegated power relates to details and is of a normal character.

BILL No. 102 OF 1968

*A Bill further to amend the Delivery of Books and Newspapers
(Public Libraries) Act, 1954*

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short title
and Com-
mence-
ment.

1. (1) This Act may be called the Delivery of Books and Newspapers (Public Libraries) (Amendment) Act, 1968.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

27 of 1954.

2. In section 2 of the Delivery of Books and Newspapers (Public Libraries) Act, 1954 (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) for part (b), the following part shall be substituted, namely:—

‘(b) “Public Libraries” means the following four prominent Libraries for the purpose of this Act:—

(1) National Library, Calcutta.

(2) Conemira Public Library, Madras.

(3) Town Hall Library, Bombay.

(4) Central Reference Library, Delhi;’

(ii) after part (b), the following new part shall be inserted, namely:—

‘(c) “publisher” means a man who writes a book and publishes the same himself as well as one who does not write a book himself but publishes a book written by another person on his behalf.’

3. In section 3 of the principal Act, in sub-section (1), for the words “deliver at his own expense a copy of the book to the National Library at Calcutta and one such copy to each of the other three public libraries within thirty days from the date of its publication.”, the words “send a copy of the book to each of the four prominent Public Libraries by registered post within thirty days from the date of its publication and claim the postage and the cost of the book from each of the libraries in a Bill in triplicate.” shall be substituted. Amendment of section 3.

4. In section 4 of the principal Act, the words “and pay the cost of posting and the book claimed by the publisher of the book in his bill within thirty days of the receipt of the bill” shall be added at the end. Amendment of section 4.

5. For section 5 of the principal Act, the following section shall be substituted, namely:— Substitution of section 5.

“5. *Penalty.*—(1) Any publisher who contravenes any provision of this Act or any rule made thereunder shall be punishable with fine which may extend to fifty rupees.

(2) The person in charge of a Public Library (whether called a Librarian or by any other name) who does not pay the postage and the cost of the book within a period of three months from the receipt of the book shall also be punishable with fine which may extend to fifty rupees.

(3) The publisher who does not receive the cost of postage and book within a period of three months shall be entitled to realise the same in a court of law as his right."

Insertion of new sections 5A and 5B.

6. After section 5 of the principal Act, the following new sections shall be inserted, namely:—

Claim of postage and cost of book from the Ministry of Education.

"5A. The officer in charge of the Library, whether called a Librarian or by any other name, shall, after paying the postage and cost of book to the publisher, submit a bill to the Ministry of Education of the Government of India, claiming all the postage and cost of books once in three months and the Ministry shall pay the same within a reasonable period.

Establishment of a fund by the Ministry.

5B. The Ministry of Education of the Government of India shall establish a separate fund for financing the four Public Libraries towards the payment of postage and cost of books as a special contribution."

STATEMENT OF OBJECTS AND REASONS

The Delivery of Books and Newspapers (Public Libraries) Act, 1954, came into force on the 20th May, 1954. According to the provisions of the Act a publisher of a book or newspaper is bound to send at his own expense, a copy of the book or newspaper to the four Public Libraries free of cost. But as the experience shows, about 90 per cent of the publishers do not send any copy of their books to any of the Libraries. It is very difficult for the writer and publisher of the book to send his book at his own cost to the Libraries. On the other hand, the Libraries are lacking in possessing such books of national value. It is, therefore, necessary to obtain such books, at least, for the four prominent Libraries and to encourage the writers and publishers.

Hence this Bill.

NEW DELHI;
The 24th October, 1968.

A. T. SARMA.

FINANCIAL MEMORANDUM

Clause 6 of the Bill requires the Ministry of Education of the Government of India to pay the postage and the cost of books to the publishers through the concerned Libraries. Approximately, twenty-five thousand rupees per year shall be required for each Library. It is, therefore, likely to involve a recurring expenditure of rupees one lakh a year.

Bill No. 105 of 1968

A Bill to regulate internal and external expenditure and payments of the Governments of the Union, the States and Union Territories, their undertakings, concerns and institutions, and all civic bodies under their direct and indirect control; to maintain watch over all business transactions of trading and commercial establishments; to prevent leakage of Income-tax, Sales-tax and other taxes and check other malpractices; and to eradicate corruption, black marketing and smuggling.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Regulation of Expenditure and Eradication of Corruption Act, 1968.

Short
title.

extent
and com-
mence-
ment.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir:

Provided that the Government of India may, by notification in the Official Gazette, exclude a State or Union territory or area thereof from the operation of all or any of the provisions of this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Definitions 2 In this Act, unless there is anything repugnant in the subject or context,—

(a) "black marketeer" means a person who buys and sells goods or any other commodity without entering any such transaction in his book of account;

(b) "black money" means money, gold or bullion or other valuables accumulated without accounting for it in the books of account;

(c) "commercial establishment" means an advertising agency or commission agency or forwarding agency or commercial agency or a clerical department of a factory or any industrial or commercial undertaking, an insurance company, a joint stock company, a bank, a brokers' office or exchange and includes such other class or classes of concerns or undertakings as the Government of India may, after taking into consideration the nature of their work, by notification declare to be a commercial establishment for the purpose of this Act, but does not include a shop or an establishment for public entertainment or amusement;

(d) "corrupt" means a person or party that offers or accepts a bribe or illegal gratification in cash or kind or promises or secures an undue advantage or privilege in an unlawful manner;

(e) "corruption" means an act or a state of affairs which contravenes the law of the land and may be induced or brought about by an individual or individuals acting singly or collectively by offering a bribe or illegal gratification in cash or kind or any advantage or privilege to which otherwise the party or parties would not be legally entitled;

(f) "evader" means a person who evades or seeks to evade duties, taxes or other imposts fixed by law;

(g) "industrialist" means a manufacturer and includes a person or a firm owning or having charge of a mill or a factory as well as an agent or a manager or any other person acting on behalf of such person or firm in the general management or control of a mill or factory;

(h) "landlord" means an owner of land and property or a person who is a lessee thereof and enjoys the right to sublet a property or a piece of land or premises;

(i) "shop" means business premises where goods are bought and/or sold, retail or wholesale, and includes a place where mechanics or technicians work or where any kind of industry is pursued;

(j) "shopkeeper" means a person owning or having charge of business of a shop and includes an agent or manager or any other person acting on behalf of such person in general management or control of a shop as defined above;

(k) "smuggle" means to import or to export any goods or articles without paying the legal duty due or payable thereon or without having a valid licence or permit to import or to export the said goods or articles;

(l) "smuggler" means a person who indulges in smuggling as defined above.

3. The Government shall, by notification in the Official Gazette, appoint a date not later than a week from the date of notification when all currency notes of the denomination of one hundred rupees and above shall cease to be legal tender:

Provided that any person who has a currency note or notes of one hundred rupees or higher denomination may within thirty days of the notification deposit the same in any account he may have with any Scheduled Bank or in an account he may open in any Scheduled Bank.

4. No questions shall be asked by any one as to the source from which these monies have been received if the deposit in a Scheduled Bank is made in the manner prescribed in section 3:

Provided that a person in possession of such a currency note or notes of one hundred rupees or above may deposit them in an existing or newly opened account in a Scheduled Bank during a further period of ninety days with a written explanation as to how

Qualified
demonetisation of
currency
notes of
rupees
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Period
and
terms of
grace for
deposit
of de-
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rency

into
Bank
accounts.

this money has been acquired by him and stating the reasons why the deposit was not made within the first prescribed period of thirty days.

Steps
to curb
corrup-
tion
and
regulate
expen-
diture.

5. (1) From the date of the notification as specified in section 3, the Government of India shall issue a further notification to the effect that all payments of five hundred rupees and over or of equivalent amounts in any foreign currency payable by any party to any other party in repayment of a debt or advance of a loan or payment of fees for services rendered or in settlement of a business transaction or for any other purpose whatsoever including gifts, donations, charities or benefaction, shall be made by means of a crossed cheque.

(2) All Government departments throughout the country, all Union and State undertakings and concerns, all civic bodies and institutions under direct or indirect control of all Governments as well as all missions and embassies of foreign countries shall make all payments in the manner prescribed in sub-section (1) of this section.

(3) Payment in this manner shall be applicable also to all foreigners for all transactions within India and no exemption shall be made in favour of any member of a foreign Diplomatic Corps or embassy, or trade commission or their staff.

Steps
to check
smuggl-
ing,
black
market-
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and
other
anti-
social
finan-
cial
transac-
tions.

6. (1) Any payment of an amount of five hundred rupees or more or an equivalent amount in a foreign currency made by any other means shall be illegal, invalid and an offence under this Act.

(2) No court of law, civil or criminal, shall entertain or admit any claim or take any action in respect of any payment made in contravention of section 5 of this Act.

(3) It shall be a cognisable offence to split single transactions and make payments in amounts of less than five hundred rupees or equivalent in foreign currency in order to escape the provisions of this Act.

(4) All banks and other banking concerns shall be directed to ensure that all cheques and drafts etc. of five hundred rupees or more or of equivalent amounts in foreign currency presented to them for deposit or clearance are properly crossed as prescribed.

(5) All posts and telegraphs offices shall also be directed to pay or receive ordinary or telegraphic money orders of five hundred

rupees or more in the manner specified in sub-section (1) of this section.

(6) The provisions of sub-section (1) of this section shall not apply to inter-bank transactions or transfers, but if a bank or banking concern has to make a payment to a person or party for a business transaction or for any professional service rendered, such payments shall be subject to the operation of this Act.

7. The Government of India shall direct the Reserve Bank of India to print and issue travellers' cheques of the denomination of two hundred and fifty rupees, one hundred rupees, fifty rupees and twenty-five rupees and such travellers' cheques shall be valid as legal tender for ninety days from the date of their sale to a customer.

Issue of Travel lers, cheques to curb corrup-tion,

8. From the date of notification in terms of section 3 of this Act, all payments specified below shall be made only by means of crossed and account payee cheques, viz.—

Special measures to regu-late certain commer-cial transac-tions.

(1) all payments and repayments of hundies and promissory notes;

(2) all payments due to the Central or a State Government or the Government of a Union territory or to any of their institutions and/or undertakings or to any civic body under direct or indirect control of any such Government, or amount required for deposit in any court of law or as customs duty payable to the Custom Houses in any part of India;

(3) all rents payable to a landlord irrespective of the amount involved, but the Government of India may frame rules to exempt small landlords and small tenants from the operation of this sub-section;

(4) earnest money payable against purchase of land and/or property or against a contract for purchase of goods or any commodity irrespective of the amount involved;

(5) the balance payable on a document presented to a Registrar of Assurances for registration;

(6) commission payable to any commission agent or a broker and all dividend warrants payable by any company to any person or a firm; and

(7) all foreign drafts and cheques drawn on banks in India, or foreign currency presented by any person for exchange to any bank but the Government of India may frame rules to exempt such transactions at the Ports and Aerodromes for the convenience of tourists and other *bona fide* passengers.

Penalty
for
improper
use
of
cheques.

9. The Government of India shall notify that to issue a cheque without sufficient funds in the bank shall be a cognisable offence from the date the Act comes into effect.

Steps
to
normalise
retail
prices
of
consumer
goods.

10. (1) The Government of India shall direct all manufacturing chemists and druggists and other manufacturers of consumer goods to show retail selling price on their containers.

(2) No manufacturer shall be permitted to supply goods to retailers without prices being printed on labels fixed on the containers of his products.

(3) The Government of India shall not allow any chemist, druggist or manufacturer of consumer goods to raise prices without express permission in writing from the prescribed authority.

11. (1) All wholesalers and retailers shall be directed to fix a price tag on every article displayed or stored in a shop or place of business where wholesale business is conducted.

(2) This section shall not, however, apply to packages or bales which remain unpacked or are in transit from one place to another or are lying in a warehouse unpacked.

Collection
of
Sales-tax.

12. The Government of India shall direct all State Governments to collect sales-tax at the source, either from the manufacturers or alongwith the Customs duty when goods are imported from foreign countries.

Appointment
and
functions
of
Licensing
Authority.

13. (1) The Chief Justice of India shall appoint a serving judge of the Supreme Court as the Chief Licensing Authority with headquarters located at New Delhi and a serving Judge of the relevant High Court to serve as the Regional Licensing Authority for each State and or Union territory.

(2) The Licensing Authority shall obtain from every individual or firm whose gross income exceeds fifty thousand rupees per year

a declaration, in the prescribed form, of income, assets and liabilities, connections with firms who have business dealings with any Government or the Government in India.

(3) The Licensing Authority shall also prescribe the form in which an individual or firm with a gross annual income of less than fifty thousand rupees may apply for registration:

Provided that the Government of India may frame rules to exempt small traders, manufacturers or business concerns from the operation of this sub-section.

(4) A person making a declaration under sub-section (2) or sub-section (3) of this section, shall give under an affidavit the names of all his partners and/or *benamdars* in the manner prescribed by rules.

(5) Subject to the compliance with these conditions, the Licensing Authority shall issue a licence without which no person in India shall engage himself in any business, trade or profession.

14. The Chief Justice of the High Court concerned, with the approval of the Chief Justice of India, shall appoint a Tribunal of two or three serving Judges of the High Court in each State to hear and decide all cases of smuggling, black-marketing, violation of exchange control regulations, evasion of taxes and other mal-practices as defined in this Act.

Appoint-
ment
and
func-
tions
of Tri-
bunals.

15. (1) Any person or firm that indulges in corruption as defined in this Act, directly or indirectly; or has dealings with a black-marketeer or corrupt person or a smuggler or an unlicensed person; or stores, displays and/or sells smuggled goods; or any person acting as a broker or an agent for the sale of illegally imported articles of any kind; or offering a bribe to any Government official or found guilty of blackmarketing or possessing black money; or any other corrupt practice shall have his licence suspended and his bank account frozen under orders of the Tribunal till such time as the Tribunal has disposed of the case.

Penalty
for
corrup-
tion.

(2) Such person or firm may also be awarded imprisonment for a period extending up to seven years and in cases of repeated offence his property, moveable and immoveable, may be confiscated under orders of the Tribunal.

(3) Appeals against the order of the Tribunal shall lie with the Appellate Branch of the relevant High Court or with the Supreme Court.

16. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may, provide for all or any of the following matters, namely:—

(a) the form or the forms of declaration to be made by each and every applicant for a licence for any business, trade or profession;

(b) the period during which such applications shall be made;

(c) the penalty for not making the application in time;

(d) the penalty for transgression of any other section of this Act;

(e) the form or forms for declaration of incomes, assets, liabilities, business connections, partners and|or *benamdars*;

(f) the conditions under which exemption may be granted from the operation of one or more sections of this Act;

(g) measures for full publicity of the provisions of this Act in both urban and rural areas; and

(h) any other acts or things which may be necessary for ensuring that the provisions of the Act are enforced, expenditures regulated according to law and corruption eradicated under penalties to be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There is no room for doubt that the existence of unaccounted money is one of the major causes of corruption in contemporary India. The amount of such money popularly called black money, is not accurately known, but its existence cannot be denied. Some people have put the figure as high as 50 thousand crores of rupees and even the most modest estimate puts it at about five thousand crores of rupees. This huge amount is not only unproductive as it cannot come out into the open and enter into the industrial and commercial activities of the nation but positively harmful as it establishes an unholy alliance between unscrupulous producers and sellers on the one hand and dishonest elements among the officials on the other. In the result, honest manufacturers and businessmen as well as honest officials suffer at every step and in desperation some of them are gradually attracted to dishonest dealings. The annual loss to public revenues alone has been estimated at about a thousand crores of rupees on account of smuggling and black-marketing leading to evasion of taxes and illegal foreign exchange transactions, bribery and corruption of many types at many levels.

The present Bill seeks to cut at the root of smuggling, black-marketing and corruption of every type by prescribing that all payments for any transaction whatsoever of any amount above the sum of Rs. 500 shall be made by crossed cheques. To prevent dishonest men from trying to get round the law by splitting up payments into units of less than Rs. 500, such action has been made a cognizable offence. Black money is forced to come out into the open by demonetising all currency notes of Rs. 100 and above from a specified date, but provision is made to allow the deposit of such money into accounts with Scheduled Banks and thus convert them into accounted money. Persons who will deposit the monies in the prescribed manner and within the prescribed period will escape punishment for past malpractices, but will be prevented from any future departure from the path of rectitude by the various provisions enunciated in the Bill.

The demonetisation of all currency notes of Rs. 100 and above and their replacement by travellers' cheques or crossed cheques and

the enforcement of all future payments through such cheques will, it is expected, regulate all future expenditure and eradicate corruption from public and private transactions.

The provision for registration of all manufacturers, industrialists, businessmen, merchants, professional men and others whose annual transactions exceed a specified amount and the establishment of special machinery, independent of the executive administration, for issue of licences and adjudication on disputes in respect of such economic activities will contribute further to the same objective.

The notes on clause explain briefly the reasons for the various provisions of the Bill.

NEW DELHI;
The 25th October, 1968.

HUMAYUN KABIR

NOTES ON CLAUSES

Clause 3.—This clause constitutes the back-bone of the proposed Bill by qualified demonetization of all currency notes of Rs. 100 and above. It will compel the black money to come out into the open. At present, most of the black money is held in such currency notes or bullion and the provisions of this Bill will make such accumulation not only unprofitable but dangerous.

Clause 4.—This clause will act as an incentive for all persons possessing black money to convert it into accounted money. It is true that some of the past misdeeds of some offenders will be condoned, but the gain to the Nation by bringing all this money into the open is enormous. Further, the moment all such money becomes part of Bank accounts, the Government will be entitled to realize Income Tax, Wealth Tax and other taxes and in this way a substantial part of the black money will accrue to Government almost immediately.

Clause 5.—This clause, by prescribing that all payments of Rs. 500 or more shall be only through crossed cheques, will act as the most effective deterrent to all kinds of illegal transactions. It will not only help to stop smuggling and black marketing but will also prevent the offer or receipt of bribe or other kinds of illegal gratifications.

Clause 6.—This provides further measures to ensure that the procedure laid down in clause 5 cannot be avoided or evaded.

Clauses 7, 8 and 9.—These clauses will help *bona fide* transactions but act as a check on all types of illegal activities.

Clauses 10, 11 and 12.—These clauses will act as a check on the tendency of dishonest shopkeepers, traders or manufacturers to make profits at the cost of the public and also save the public from unnecessary harassment by collecting Sales Tax at the source.

Clauses 13 and 14.—These clauses provide the machinery for the registration of all those who want to engage themselves in industry, trade or a profession and lay down the standard of conduct for

them and also provide machinery which will deal with cases expeditiously and in a just manner.

Clause 15.—This clause is intended to discourage all those who indulge in any kind of illegal activities in order to make profit at the cost of the public.

FINANCIAL MEMORANDUM

As mentioned in the Statement of Objects and Reasons, unaccounted money is one of the major causes of corruption, both official and private. The measures for controlling expenditure through use of crossed cheques and travellers cheques will go a long way in checking this evil. These measures have no financial implication, but the appointment of Licensing Authority and Tribunals, proposed in the Bill, may involve additions to the strength of the Judges of the Supreme Court and the High Courts. The exact amount involved cannot be specified at this stage, but it is unlikely that the amount of expenditure for any one State will exceed rupees one lakh and for the whole of the Union of India, the expenditure may be of the order of less than rupees twenty-five lakhs.

As against a possible expenditure of 25 lakhs of rupees per annum, the savings to the national economy, both direct and indirect, will be in hundreds if not thousands of crores. According to current estimates, the nation loses every year a sum exceeding Rs. 200 crores for evasion of Income Tax, another Rs. 200 crores on account of illegal foreign exchange transactions, about Rs. 300 crores on account of unpaid customs revenues and excise duty on smuggled goods and at least another Rs. 300 crores because of irregularities, frauds, infructuous expenditure, misappropriation and pilferage of stores and equipment in Railways and Ports. Shri K. Hanumanthaiya, Chairman of the Administrative Reforms Commission has estimated that preventive loss on public sector industries alone amounts to another 500 crores of rupees per year.

Apart from the direct gains to the Exchequer through payment of Income-tax, Excise Tax, Customs Tax and other taxes which cannot be avoided under the proposals of this Bill, the State will also gain by converting large amounts, which are at present hidden, into accounted money. This will increase the capital resources available to the Nation and the increased industrial and agricultural activities will add to the national income which in turn will bring additional revenues to the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The matters in respect of which rules may be made relate to procedure or detail necessary for the effective administration of the provisions of the Bill, and as such the delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.